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1 — EPA Administrator Says Water Quality Is Improving In Contaminated Western Rivers, Texas Public Radio, 8/12/2015

<http://tpr.org/post/epa-administrator-says-water-quality-improving-contaminated-western-rivers>

The head of the Environmental Protection Agency says samples of waters that flow through three Western states, contaminated by waste from an abandoned Colorado mine last week, are showing improvement. Experts say the heavy metals and other materials are still there, though, in the riverbeds. Speaking to reporters today from Durango, Colo., EPA Administrator Gina McCarthy promised more details later but did provide what she called "very good news."

2 — EPA: Good news on river water testing, Albuquerque Journal, 8/12/2015

<http://www.abqjournal.com/627520/news/epa-good-news-on-river-water-testing.html>

The Environmental Protection Agency's top official said Wednesday that data from the Gina McCarthy, Environmental Protection Agency administrator, spoke with the news media in Durango, Colo., on Wednesday. Animas River in La Plata County show good news, but other officials immediately raised concerns about long-term effects from the contaminated water that spilled from a mine north of Silverton last week.

3 — LSU AgCenter water economist helps farmers, foresters interpret new Clean Water Rule, WWNO, 8/13/2015

<http://wwno.org/post/lsu-agcenter-water-economist-helps-farmers-foresters-interpret-new-clean-water-rule>

A federal rule that revises which bodies of water are subject to the Clean Water Act will take effect Aug. 28. Some Louisiana farmers are concerned that the new Clean Water Rule is overreaching. The biggest change is the U.S. Environmental Protection Agency is defining ditches, according to LSU Ag Center water policy economist Naveen Adusumilli. Any ditch that is part of a tributary or connected to a previously jurisdictional waterway would now have to be in compliance with the Clean Water Act.

4 — New Orleans shrimpers, fishermen rally for changes to federal seafood import regulations, WDSU, 8/12/2015

<http://www.wdsu.com/news/local-news/new-orleans/local-shrimpers-fishermee-to-rally-wednesday-for-changes-to-federal-seafood-import-regulations/34670510>

While the Gulf of Mexico Fishery Management Council met in New Orleans, those who support and work in Louisiana's seafood and fishing industries rallied outside. Local shrimpers and fisherman said the U.S. government's poor regulation of importing seafood has been affecting their livelihoods, and they need things to change soon before, they say, an industry that has thrived for generations in Louisiana is destroyed.

5 — Shell Oil accidentally spills hundreds of thousands of pounds of toxic gas in Deer Park, Houston Chron, 8/12/2015

<http://www.chron.com/news/houston-texas/houston/article/Shell-Oil-accidentally-spills-hundreds-of-6438343.php?cmpid=fb-desktop>

On Sunday morning, hundreds of thousands of pounds of toxic gas were accidentally released from the Shell Oil facility in Deer Park. According to reports from the Texas Commission on Environmental Quality, 326,166 pounds of butadiene escaped through an open valve on a spherical tank between 10:40 am and 11:35 am.

6 — DEQ and EPA plan Henryetta Industrial Park cleanup hearing, Tulsa ABC, 8/13/2015

<http://www.ktul.com/story/29775921/deq-and-epa-plan-henryetta-industrial-park-cleanup-hearing>

The Oklahoma Department of Environmental Quality and the Environmental Protection Agency are planning an open house in Henryetta later this month to discuss cleanup of the Shurden-Leist Industrial Park. The site is the result of the combined efforts of DEQ, EPA and the city of Henryetta to clean up the former Eagle Picher and Victory Metals smelter sites. The Shurden-Leist Industrial Park comprises about 70 acres and sits on the former Eagle Picher smelter site, which operated as a zinc and cadmium smelter from 1916 to 1968.

7 — Farm Bureau: Maps Show Massive Increase in EPA Authority, Regulatory Uncertainty for Everyone Else, Farm Bureau, 8/12/2015

http://www.fb.org/newsroom/news_article/344/

A series of maps released today by the American Farm Bureau Federation show how the EPA will radically expand its jurisdiction over land use if its controversial Waters of the United States rule takes effect as expected August 28. That expansion comes even as major parts of the rule remain largely incomprehensible to experts and laypeople, alike. The maps, prepared by Geosyntec Consulting, show the dramatic expansion of EPA's regulatory reach, stretching across wide swaths of land in Pennsylvania, Virginia and Montana.

8 — EPA awards grant to Arkansas take action on air toxics, THV 11, 8/12/2015

<http://www.thv11.com/story/news/2015/08/12/epa-awards-grant-arkansas-take-action-air-toxics/31545315/>

The U.S. Environmental Protection Agency has awarded a \$503,071 grant to the Arkansas Department of Environmental Quality to help administer the state's pollution prevention and control program.

9 — Devil's Swamp Lake fish too polluted to eat, DHH warns, Times Picayune, 8/13/2015

http://www.nola.com/politics/index.ssf/2015/08/dhh_steps_up_water_warnings_fo.html#incart_most_shared-environment

Citing "unacceptable levels" of PCBs and mercury, the Department of Health and Hospitals has stepped up warnings about dangerous water in Devil's Swamp Lake and Bayou Baton Rouge in Scotlandville. The department is telling residents not to consume any fish or crawfish pulled out of either body of water, and is also warning people to "avoid swimming and participating in water activities there."

10 — Oklahoma Beekeepers, Farmers Discuss Balancing Hive Health and Crop Protection, NPR, 8/12/2015

<https://stateimpact.npr.org/oklahoma/2015/08/12/oklahoma-beekeepers-farmers-discuss-balancing-hive-health-and-crop-protection/>

Oklahoma lost a greater percentage of its honeybee colonies than any other state over the last year. On Tuesday, beekeepers, scientists, and farmers gathered at Langston University's Oklahoma City campus to give their input on a plan to better protect pollinators of all kinds. The discussion centered on balancing the need to apply pesticides to crops, with the dangers those chemicals pose to pollinating insects.

11 — After 17 Years, Texas Poised to Resolve Oil Spill, Texas Tribune, 8/13/2015

<http://www.texastribune.org/2015/08/13/i-love-90s-texas-poised-resolve-long-ago-oil-spill/>

In the time it has taken the state and federal governments to penalize a Koch Industries affiliate for a South Texas oil spill, 17 different quarterbacks started games for the Dallas Cowboys, including the team's current head coach.

12 — Judge approves Exxon Mobil settlement over 2013 Arkansas spill, Reuters, 8/12/2015

<http://www.reuters.com/article/2015/08/12/us-exxonmobil-settlement-idUSKCN0QH2FJ20150812>

A federal judge on Wednesday approved Exxon Mobil Corp's \$5.07 million settlement of charges that it violated the federal Clean Water Act and state environmental laws in connection with a 2013 oil spill in central Arkansas. U.S. District Judge Kristine Baker in Little Rock, Arkansas called Exxon Mobil's consent decree with the United States and Arkansas "fair, reasonable, and adequate, and consistent with the Clean Water Act."

13 — 'They figured our neighborhood is black, so they'll do it', CPI, 8/13/2015

<http://www.publicintegrity.org/2015/08/13/17759/they-figured-our-neighborhood-black-so-theyll-do-it>

At the U.S. Environmental Protection Agency's regional office in New York City Lane presented to a table full of civil-rights investigators and lawyers a PowerPoint detailing the Southside community's struggles: the state highway dissecting the historically black neighborhood; the industrial plants dumping on residents; and now the sewage treatment facility threatening to add to the burden.

14 Grassroots effort helps clean up Tres Palacios Creek, Victoria Advocate, 8/11/15

<http://www.victoriaadvocate.com/news/2015/aug/11/grassroots-effort-forms-to-help-clean-up-tres-pala/>

A Bay City man wiped sweat from his brow as he pulled his boat out of the Tres Palacios Creek on Saturday. For decades, Larry Capps has fished the creek a few miles upstream of the Tres Palacios Bay. Capps has caught giant redfish and gafftop in the saltwater that sinks to the bottom of the creek.

15 Scientific integrity plan 'stuck in utero' – watchdogs, Greenwire, 8/12/2015

<http://www.eenews.net/greenwire/2015/08/12/stories/1060023358>

U.S. EPA is dragging its feet when it comes to ensuring the integrity of its science, according to a government watchdog group. Public Employees for Environmental Responsibility yesterday sent a letter to EPA Administrator Gina McCarthy criticizing her agency for failing to fully implement an official scientific integrity policy.

16 Texas' Galveston Bay gets C in health report card, Greenwire, 8/12/15

<http://www.eenews.net/greenwire/2015/08/12/stories/1060023351>

The first-ever report card on the health of Texas' Galveston Bay gave the waterway a C and warned that conditions will worsen unless steps are taken to continue restoration efforts. The report released today by the Houston Advanced Research Center and Galveston Bay Foundation described a bay that is under assault by pollution, habitat loss and climate change. The bay is destined to lose the health gains it has made over the past three decades if no further action is taken, the authors wrote.

17 - Coastal restoration: The money, by the numbers, Times Picayune, 8/11/15

http://www.nola.com/futureofneworleans/2015/08/coastal_restoration_a_financia.html

Here's a breakdown of the money needed to pay for Louisiana's Master Plan, with half dedicated to coastal restoration. The chart includes known and possible future money sources.

18 — 17 states launch legal assault against startup-shutdown rule, EE News, 8/12/15

<http://www.eenews.net/stories/1060023356>

Seventeen states are challenging U.S. EPA's recent rule that changed the way states are required to address excess air pollution that occurs during plant startups and shutdowns or industrial equipment malfunctions. In a petition for review, the states argue that EPA "erroneously concluded" that their plans to reduce pollution were "inadequate" to address emissions that occur during those times.

19 No Injuries Reported In East Texas Paint Plant Fire, CBS DFW, 8/12/15

<http://dfw.cbslocal.com/2015/08/12/no-injuries-reported-in-east-texas-paint-plant-fire/>

Investigators say nobody has been hurt in an overnight fire and explosions at a paint-related industrial plant in East Texas. Authorities are trying to determine what sparked the fire early Wednesday at Century Industrial Coating- a paint manufacturing plant Off Highway 69 near Jacksonville. Officials say the fire was brought under control by about dawn.

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EPA Administrator Says Water Quality Is Improving In Contaminated Western Rivers

By [BRAKKTON BOOKER \(/PEOPLE/BRAKKTON-BOOKER\)](#) • 14 HOURS AGO

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Originally published on August 12, 2015 7:10 pm



The head of the Environmental Protection Agency says samples of waters that flow through three Western states, contaminated by waste from an abandoned Colorado mine last week, are showing improvement. Experts say the heavy metals and other materials are still there, though, in the riverbeds.

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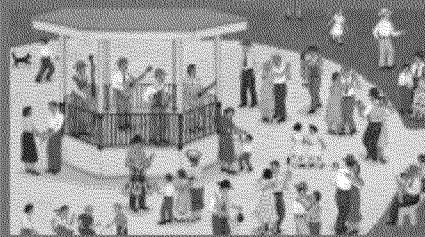
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"We have water quality data from Aug. 7, 8 and 9 from La Plata County and it shows that the levels have returned to pre-event conditions," McCarthy said.

It was not quite an "all clear" though.

The Associated Press reports (http://hosted.ap.org/dynamic/stories/U/US_MINE_WASTE_LEAK?SITE=AP&SECTION=HOME&TEMPLATE=DEFAULT) that the riverbed remains tainted:

" 'There will be a source of these contaminants in the rivers for a long time,' said hydrologist Tom Myers, who runs a Nevada-based consulting business. 'Every time there's a high flow, it will stir it up and it will be moving those contaminants downstream.' "

McCarthy said EPA will work "with our counties and our local communities so that they can have a chance to review this data thoroughly and they can have a full opportunity to talk through what this means in terms of decisions they're going to make moving forward."

"The very good news is that the data so far is showing that water quality does restore itself to its prior conditions," McCarthy said.

It's been a week since a toxic flood of heavy metals, arsenic and other materials from the Gold King Mine spilled into the waterway, turning it a vibrant mustard color.

McCarthy announced the EPA would be conducting an internal investigation as to what caused the Aug. 5 spill. The EPA chief also said her agency will seek an independent review of what happened.

The Denver Post (http://www.denverpost.com/news/ci_28627376/epa-chief-gina-mccarthy-durango-wednesday-see-animas)reports:

"While in the region, McCarthy is not planning a trip to the Gold King Mine, nor is she holding a public meeting. The incident, she said, was a 'heart-breaking situation.' "

McCarthy reiterated points she made ahead of her trip to Colorado, saying, "No agency could be more upset about the incident happening" and that the EPA is taking full responsibility.

As we've reported, the spill was triggered (<http://www.npr.org/sections/thetwo-way/2015/08/11/431527360/rivers-shut-down-over-epa-s-spill-of-3-million-gallons-of-toxic-water>) last week when an EPA cleanup team breached a dam at an abandoned Colorado mine.

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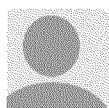
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EPA: Good news on river water testing

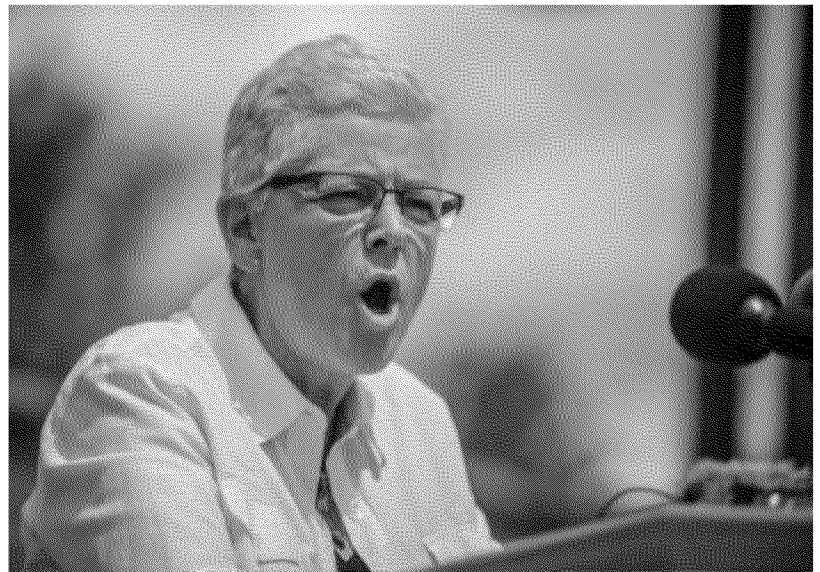
Ollie Reed Jr. / Journal Staff Writer

DURANGO, Colo. – The Environmental Protection Agency's top official said Wednesday that data from the

Animas River in La Plata County show good news, but other officials immediately raised concerns about long-term effects from the contaminated water that spilled from a mine north of Silverton last week.

Meanwhile, a half-dozen members of the New Mexico and Colorado congressional delegations sent President Barack Obama a strongly worded letter Wednesday seeking "any and all appropriate federal resources" to deal with damage from the Gold King Mine spill.

Their requests sought the inclusion of multiple federal agencies to step in and help and requested that a process be created for recovering all costs to governments and businesses related to the spill.



Gina McCarthy, Environmental Protection Agency administrator, spoke with the news media in Durango, Colo., on Wednesday. (Roberto E. Rosales/Albuquerque Journal)

Gina McCarthy, EPA administrator, said Wednesday that data from the Animas River in LaPlata County show that the water quality has returned to the level it was before the spill.

McCarthy made the announcement in a news conference at Durango's La Plata County Fairgrounds complex, which has been serving as a command center for those dealing with the contamination.

Also on Wednesday, the Colorado Department of Public Health and Environment notified the city of Durango that drinking water treatment facilities can begin to use the Animas River to collect and treat water for customers.

But within an hour of McCarthy's news conference, New Mexico Attorney General Hector Balderas and his Colorado and Utah counterparts held their own press conference at Durango's Rotary Park – with a different message.

Colorado Attorney General Cynthia Coffman warned that although early testing looks positive, the effects of the heavy metal contamination from the Gold King Mine could affect rivers for many years.

"Although we are getting some short-term good news from the EPA administrator, that (contamination) plume is still moving," Coffman said.

She said that even though the Animas River looks pretty now, the heavy metals that make up the contamination settle to the bottom of the river and get stirred up by everything from rainstorms to river rafters.

"Often, the harm takes years to show up," she said. "I am grateful we have not seen a fish kill and that the insect life on the river appears to be normal. But often it takes three or four years for the effects to show up in fish."

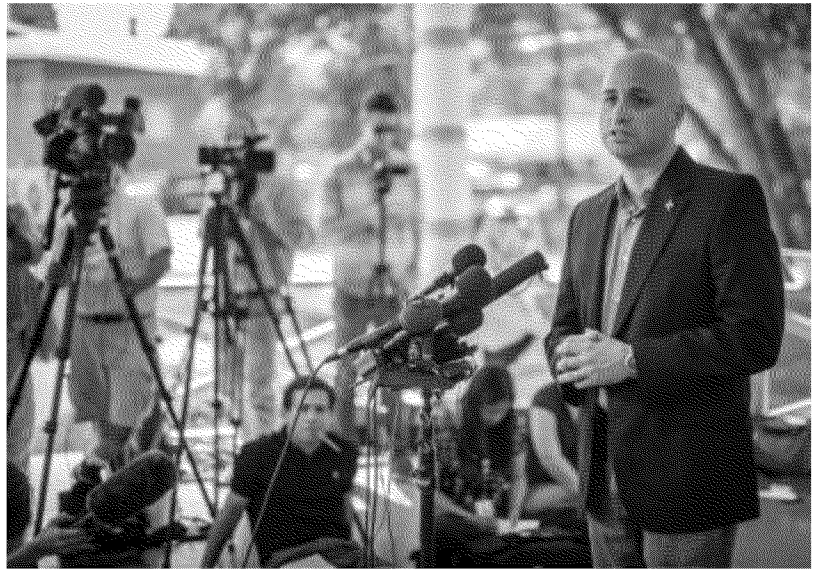
The spill occurred last week when an EPA cleanup crew accidentally broke through a containment wall holding back the contaminated water near the mine.

More than 3 million gallons of contaminated water rushed into Cement Creek, which flows into the Animas River, which then carried the yellow-hued plume into the San Juan River near Farmington in New Mexico. Now the plume, much diluted after more than a week, is moving toward Utah and Lake Powell.

McCarthy came to Colorado to meet with local officials and technical experts trying to deal with the environmental hazard. She has a similar meeting planned with New Mexico officials and experts in Farmington today.

'Making it right'

During her news conference, McCarthy said she wanted to make it clear that the EPA is taking the situation seriously, is taking full responsibility for causing it and is working hard to clean it up.



New Mexico Attorney General Hector Balderas, who with the attorneys general of Utah and Colorado visited Durango, Colo., on Wednesday, talked at a news conference about concerns over the Gold King Mine spill, which contaminated the Animas and San Juan rivers.

"No agency can be more sorry," she said of the EPA. "No agency can be more dedicated to making it right."

McCarthy said the EPA is trying to get to the bottom of what went wrong and is also seeking an independent review.

"Our mission is to protect public health and the environment," she said. "We hold ourselves to a higher standard. The important thing is that we are moving forward."

McCarthy said she had not visited the Gold King Mine site and did not intend to do that on this trip.

"That is not my area of expertise," she said. "I am going to rely on technical expertise. Science will be our guide in our partnership with local leaders."

Balderas, Coffman and Utah Attorney General Sean Reyes said they want to tour the Gold King Mine site but have been unable to get clearance to do so. They said they are also hoping that McCarthy can work a meeting with them into her schedule,

NM supply

Unlike Silverton and Durango, which get most of their city water from sources that were not affected by the contamination, New Mexico cities such as Farmington, Aztec and Kirtland depend on the contaminated rivers for most of their water.

Balderas said he is very concerned about the limited water supplies available to those New Mexico towns and to other affected New Mexico communities, including the Navajo Nation.

"Our agriculture Native American communities are not only concerned about how they are going to pay for clean water resources but also how they are going to feed their livestock," Balderas said.

He said his office is monitoring the damage claims process system to make sure the EPA will satisfy those claims in a timely and efficient manner.

He said he is glad the EPA is seeking an independent review and is demanding full transparency from the federal government not only in the release of data related to river health but also into the cause of the initial incident.

Balderas said there continues to be some confusion about the state of the river water in New Mexico, and he is glad that the New Mexico Environment Department is collecting independent samples.

Coffman responded for all three AGs in saying it is too early to say if the affected states will sue the federal government.

"Don't count out the possibility," she said. "But we will give our federal partners the opportunity to do the right thing."



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LSU AgCenter water economist helps farmers, foresters interpret new Clean Water Rule

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A federal rule that revises which bodies of water are subject to the Clean Water Act will take effect Aug. 28. Some Louisiana farmers are concerned that the new Clean Water Rule is overreaching.

The biggest change is the U.S. Environmental Protection Agency is defining ditches, according to LSU Ag Center water policy economist Naveen Adusumilli. Any ditch that is part of a tributary or connected to a previously jurisdictional waterway would now have to be in compliance with the Clean Water Act.

“Those ditches which were not previously regulated could now be jurisdictional water. I think that is the primary concern for most farmers. Would those lands now be under federal control?” Adusumilli said, who is based at the Red River Research Station in Bossier City.

The Clean Water Rule brings land in 100-year flood plains under jurisdiction. Drainage ditches and irrigation runoff are not specifically regulated, but there could be cases where they are called into question. Adusumilli notes previous agriculture exemptions are still in place.



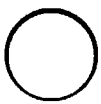
LSU AgCenter water policy economist Naveen Adusumilli gave a presentation about the Clean Water Rule recently to the forestry industry.

CREDIT KATE ARCHER KENT

“The EPA has clearly mentioned that all those exemptions for agriculture that existed in the old rule will continue to exist. They haven’t rolled back any of the exemptions,” Adusumilli said.

Adusumilli urges anyone with a body of water on their property to contact the EPA’s Region 6 Office to find out if it is subject to the Clean Water Act. Adusumilli is designing a handout to help LSU AgCenter extension agents get up to speed on the changes.

He says an EPA water quality violation could bring a fine of up to \$37,000 per day. Attorneys general in more than two dozen states are challenging the new rule in a lawsuit.



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Clean Water Act piece

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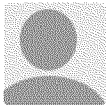


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By Kelsey
Davis

New Orleans shrimpers, fishermen rally for changes to federal seafood import regulations

UPDATED 5:40 PM CDT Aug 12, 2015

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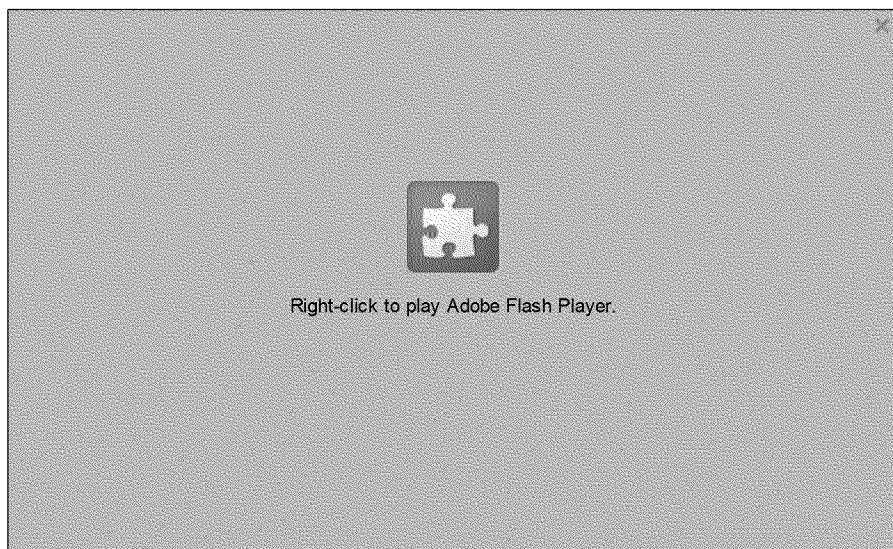
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Local shrimpers and fisherman said the U.S. government's poor regulation of importing seafood has been affecting their livelihoods, and they need things to change soon before, they say, an industry that has thrived for generations in Louisiana is destroyed.

"The saddest part that I see is that the younger generations has to go somewhere else to get a job. We have some fishing families that are six generations," said George Barisich, a board member of the Louisiana Shrimp Association.



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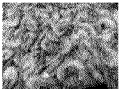
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SHRIMP HARVEST DIPS BUT PRICES CLIMB

The Louisiana shrimp harvest was slightly down in January and February compared to historic averages, but the price per pound was much higher.
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The Louisiana Shrimp Association is heading up the rally, pushing for the federal changes. The shrimpers association said the federal government is doing a poor job of inspecting imported seafood, meaning millions of pounds of shrimp are coming into the country, which is increasing supply and driving down their prices and profit.

"Those countries subsidize their businesses. So you can't compete. Some of those countries, they are paying them 18 cents an hour to farm shrimp," said Barisich.

Members said while consumers will likely see lower prices for shrimp in stores starting as soon as this fall, the price drop, overall, is not a good thing for the state's seafood industry. The group reports a 65 percent drop in dockside shrimp revenue for this year. When shrimpers normally made close to \$5 for a pound of large white shrimp in 2014, this year they could only pocket about \$1.50 for that same pound.

Barisich said the other issue with poor federal regulation on imported seafood is that no one is monitoring its safety standards. He said a lot of the seafood that comes through U.S. ports, and then onto plates, has been banned in other countries because of practices used to farm it.

"The only reason these countries can do it is because they have no (Environmental Protection Agency). They'll destroy so many acres of land to build a pond then build another one. They got cheap labor and cheap land," said Barisich. "We have all these rules and regulations to follow. If they had to follow the same rules and regulations, their prices would be the same, and it would be free trade. It would be fair, because I'm going to compete. I'm going to give you a better product at the same price."

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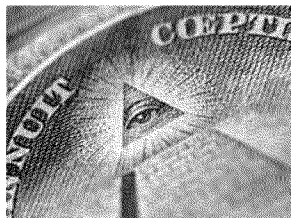
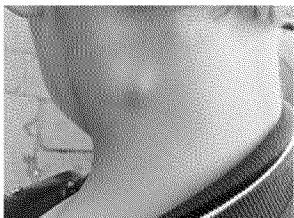
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Shell Oil accidentally spills hundreds of thousands of pounds of toxic gas in Deer Park

Dylan Baddour, Houston Chronicle Updated 2:29 pm, Wednesday, August 12, 2015



On Sunday morning, hundreds of thousands of pounds of toxic gas were accidentally released from the Shell Oil facility in Deer Park.

According to reports from the Texas Commission on Environmental Quality, 326,166 pounds of butadiene escaped through an open valve on a spherical tank between 10:40 am and 11:35 am.

Neil Carman, a chemist with the Sierra Club of Texas and a former power plant inspector for the TCEQ, said that butadiene is a known human carcinogen, but that its molecular structure allows it to dissipate quickly in the hot summer air. The chemical is commonly expelled in car exhaust, but Carman said the quantity in the Shell incident was concerning.

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"This release is huge," he said. "Even 10% of 326,000 is big for butadiene."

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Shell spokesperson Ray Fisher said the company is investigating the cause of the release. Meanwhile, data from nearby monitors did not exceed TCEQ odor or health-based screening levels during the incident.

"To the best of our knowledge, there were no adverse impacts on the community," Fisher said.

According to the U.S. Environmental Protection Agency, long-term exposure to butadiene has been linked to increased likelihood of cardiovascular disease and leukemia.

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DEQ and EPA plan Henryetta Industrial Park cleanup hearing

Posted: Aug 13, 2015 2:09 AM CDT

Updated: Aug 13, 2015 2:09 AM CDT

OKLAHOMA CITY (AP) - The Oklahoma Department of Environmental Quality and the Environmental Protection Agency are planning an open house in Henryetta later this month to discuss cleanup of the Shurden-Leist Industrial Park.

The site is the result of the combined efforts of DEQ, EPA and the city of Henryetta to clean up the former Eagle Picher and Victory Metals smelter sites. The Shurden-Leist Industrial Park comprises about 70 acres and sits on the former Eagle Picher smelter site, which operated as a zinc and cadmium smelter from 1916 to 1968.

The cleanup was completed by EPA in 1997. The cleanup consolidated the higher concentration smelter materials into an on-site disposal cell and capped the remaining material across the site with a soil cap.

The open house is scheduled on Aug. 25.

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Farm Bureau: Maps Show Massive Increase in EPA Authority, Regulatory Uncertainty for Everyone Else

WASHINGTON, D.C., August 12, 2015 – A series of maps released today by the American Farm Bureau Federation show how the EPA will radically expand its jurisdiction over land use if its controversial Waters of the United States rule takes effect as expected August 28. That expansion comes even as major parts of the rule remain largely incomprehensible to experts and laypeople, alike.

The maps, prepared by Geosyntec Consulting, show the dramatic expansion of EPA's regulatory reach, stretching across wide swaths of land in Pennsylvania, Virginia and Montana. In Pennsylvania, for example, 99 percent of the state's total acreage is subject to EPA scrutiny. Landowners have no reliable way to know which of the water and land within that area will be regulated, yet they must still conform their activities to the new law.

"Farmers face enforcement action and severe penalties under EPA's new rule for using the same safe, scientifically sound and federally approved crop protection tools they've used for years," AFBF President Bob Stallman said. "This rule creates a new set of tools for harassing farmers in court, and does it all with language that is disturbingly vague and subject to abuse by future regulators. It's worth saying again: The EPA needs to withdraw this rule and start over."

Maps prepared to date can be found here:

- Montana WOTUS Maps
- Pennsylvania WOTUS Maps
- Virginia WOTUS Maps

**Additional maps are being developed for parts of Missouri, New York, Oklahoma and Wisconsin.*

The interactive maps in detail:

The maps' base layer shows areas regulated as tributaries and adjacent wetlands without a case-specific "significant nexus" analysis under previous rules. Through a progression, the maps add "ephemeral streams"—low spots in the land that drain and channel water away from farmland after a rain but are otherwise dry. The EPA has sometimes asserted jurisdiction over such areas before, but only after a site-specific finding of a "significant nexus" to downstream waters. Under the new rule, all such "ephemeral tributaries" are regulated.

With this added jurisdiction in place, the Clean Water Act will prohibit many common agricultural practices in or around these ephemeral features. Any unpermitted discharge—whether pesticides, fertilizer or even disturbed soil—will leave farmers vulnerable to enforcement by EPA, the Corps, or private citizens, with severe potential penalties. This means unless farmers are able to navigate the regulatory system to secure a costly Clean Water Act permit, farming in many areas will be significantly restricted.

The maps' next layer shows how the rule expands the definition of regulated "adjacent waters" to cover all waters (including wetlands) that lie, even partially, within 100 feet on either side of these newly regulated ephemeral drains. Next, they show where even more "adjacent waters" may lie—and this is where the vast uncertainty comes in. Where any part of a water or wetland is within the 100-year

floodplain of a tributary, and not more than 1,500 feet (1/4 mile) from the tributary, that entire water feature is regulated. The uncertainty springs from the fact that many areas lack flood zone maps. What's more, many such maps are out-of-date, and most ditches and ephemeral streams do not have mapped flood zones. The result is that farmers and other landowners lack even the basic tools to identify wetlands or other waters that are automatically regulated under the rule.

The final blow—the almost unlimited reach of the rule—is shown in the final map layer that covers waters that are not “tributaries” or “adjacent,” but may still be jurisdictional based on a “significant nexus” to downstream waters. The WOTUS rule allows “significant nexus” regulation of waters (including wetlands) that lie even partially within 4,000 feet (about ¾ mile) of any tributary. Mapping 4,000 feet from even just the known ephemeral streams—ignoring ditches and not-yet-identified ephemeral tributaries—shows that this 4,000-foot zone of uncertainty covers the entire landscape in many parts of the country.

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EPA awards grant to Arkansas take action on air toxics

Associated Press, news source

1:52 p.m. CDT August 12, 2015



(Photo: EPA)

LITTLE ROCK, Ark. (AP) - The U.S. Environmental Protection Agency has awarded a \$503,071 grant to the Arkansas Department of Environmental Quality to help administer the state's pollution prevention and control program.

The program includes ambient monitoring, planning, permitting and compliance activities. ADEQ will also monitor pollutants, identifying major and minor sources of air pollution that may affect the state. The goal is to help Arkansas residents live healthier and breathe more easily.

For more than 40 years, the federal Clean Air Act has provided layers of protection, potentially saving millions of people from skin cancers and cataracts. It has also cut emissions from power plants, improving public health.

The effort has involved state, local and tribal governments, the EPA, private companies, environmental groups and the public.



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Ted Cruz will visit 3 areas of Ark.

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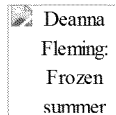
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Everything New Orleans

Devil's Swamp Lake fish too polluted to eat, DHH warns

DHH.jpg

The Department of Health and Hospitals has stepped up its warnings about swimming and eating seafood from Devil's Swamp and Baton Rouge Bayou in East Baton Rouge Parish. (Emily Lane, NOLA.com | The Times-Picayune)

Kevin Litten, NOLA.com | The Times-Picayune By Kevin Litten, NOLA.com | The Times-Picayune

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on August 12, 2015 at 5:34 PM, updated August 13, 2015 at 8:38 AM

Citing "unacceptable levels" of PCBs and mercury, the Department of Health and Hospitals has stepped up warnings about dangerous water in Devil's Swamp Lake and Bayou Baton Rouge in Scotlandville.

The department is telling residents not to consume any fish or crawfish pulled out of either body of water, and is also warning people to "avoid swimming and participating in water activities there." Previous warnings had contained advice to limit meals of fish or crawfish from those bodies of water to two per month.

The department said the contamination of fish and crawfish is now worse than previous samples showed from the early 1990s. It cited data collected during 2012 and 2013 that showed levels of the contaminants in some species of fish pulled from the area bounded by Hall Buck Marine Road, Baton Rouge Barge Harbor and the Mississippi River.

"While eating small amounts of fish or crawfish in the past may not result in observable health effects, prolonged exposure from frequent consumption over many years could negatively impact human health," the department said.

Environmental advocates have been critical of previous warnings about seafood consumption from Devil's Swamp Lake in the past. NOLA.com | The Times-Picayune reported in 2005 about concerns that existing warnings were insufficient while poor people were eating fish from the lake on a regular basis.

"The fish consumption advisory currently posted is a woefully inadequate remedy to the problem because the low incomes of persons in this area force them to eat substantial amounts of fish from the lake in order to have enough food," advocates from the Center for Progressive Regulation wrote at the time.

Devil's Swamp Lake is a Superfund site, which means it's being monitored by the federal Department of Environmental Protection as a polluted body of water. The department said the EPA "will continue with the remedial investigation" of the site.

Warnings about Devil's Swamp had been issued as early as the 1980s, according to the EPA.

Anyone with questions about the advisory should contact DHH at 1-888-293-7020.

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Economy, Energy, Natural Resources: Policy to People

Oklahoma Beekeepers, Farmers Discuss Balancing Hive Health and Crop Protection

AUGUST 12, 2015 | 11:10 AM

BY LOGAN LAYDEN



LOGAN LAYDEN / STATEIMPACT OKLAHOMA

Beekeeper Tim McCoy removes a rogue honeybee hive from an electrical box in farmland near Weatherford, Okla in this June 2015 photo.

Oklahoma lost a greater percentage of its honeybee colonies than any other state over the last year. On Tuesday, beekeepers, scientists, and farmers gathered at Langston University's Oklahoma City campus to give their input on a plan to better protect pollinators of all kinds.

The discussion centered on balancing the need to apply pesticides to crops, with the dangers those chemicals pose to pollinating insects. The main point of contention was whether to make the location of managed colonies available online. It would allow pesticide applicators to avoid bees, but would also let potential thieves to know exactly where the valuable hives are.

The EPA is writing new rules to help bees, but the Oklahoma Department of Agriculture, Food and Forestry is gathering comments as it finishes a state-based plan — at public meetings across the state.

"How's an applicator supposed to know where the beehive is if it's not listed somewhere where they can check the records?" Joe Hampton, president of the Oklahoma Agribusiness Retail Association asked.

The health of the thousands of managed, commercial honeybees hives that are vital to

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crop pollination in Oklahoma was the top concern at the meeting, but the precipitous decline in wild bee populations was also a major concern.

“10 or 15 years ago, in three counties out there, I could tell you where 25 wild hives of bees were,” Jimmy Shobert with the Oklahoma Beekeepers Association told the crowd of about 70. “Today I can tell you, probably, three or four hives is all that’s left out there.”

The myriad of factors causing pollinator losses, from parasites to habitat destruction, make the prospects for a turnaround seem dim, but there was plenty of hope at Langston on Tuesday. One reason why is that bees, like any living thing, need water. Unlike the past few years, they’ve got plenty of water now.

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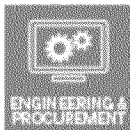
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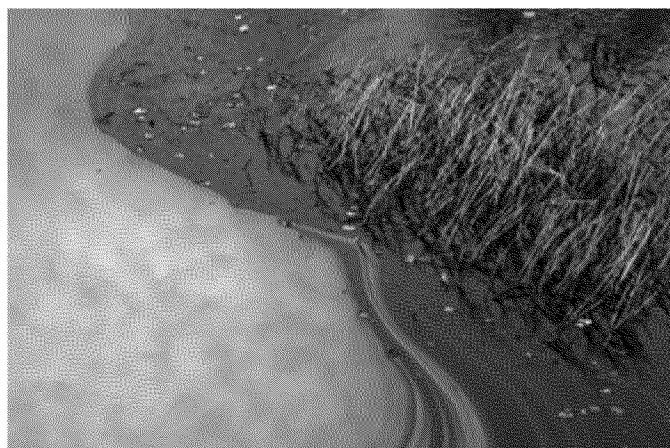
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THE TEXAS TRIBUNE

After 17 Years, Texas Poised to Resolve Oil Spill

by Jim Malewitz | Aug. 13, 2015



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Now, however, Koch Pipeline Company is finally poised to pay up for spilling nearly 24,700 gallons of crude into Karnes County's Marcelinas Creek — almost 17 years after the fact, according to filings in the U.S. District Court for the Western

In the time it has taken the state and federal governments to penalize a Koch Industries affiliate for a South Texas oil spill, 17 different quarterbacks started games for the Dallas Cowboys, including the team's current head coach.

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District of Texas.

Though severe enough to harm local wildlife, the incident may not be remarkable in a state that sees hundreds of oil spills — large and tiny — each year, and has dealt with the messy aftermath of BP's Deepwater Horizon explosion. But the gaping time lag between the pollution and penalty befuddled some legal experts.

"It's extremely weird," Jim Bradbury, a Fort Worth-based lawyer who focuses on environmental and energy issues. "Seventeen years is almost unexplainable to me."

In October of 1998, months after the movie *Titanic* took home 11 Oscars, a tank sprung a leak at a Koch Pipeline crude oil receiving station. More than 30,300 gallons spilled out, much of it flowing into the creek, a tributary of the San Antonio River. Floodwaters carried the oil several miles downstream, coating the banks and a swath of vegetation, according to a complaint filed Tuesday by the U.S. Department of Justice and Texas Attorney General Ken Paxton. .



Koch Pipeline and the governments have now agreed to resolve the case. Without admitting liability, the company will pay \$770,000 — split between several state and federal agencies — to cover restoration and other costs, under a consent decree also filed Tuesday.

The agreement came under the Natural Resources Damage Assessment (NRDA), a federal restoration process for hazardous spills, and once the agreement is finalized following a public comment period, it will be the last resolution of three Koch spills in Texas that happened around the same time.

The site had long been cleaned up, and the company settled with the landowners, Deanna Altenhoff, a Koch spokeswoman said Wednesday. "It is not uncommon for the NRDA assessment and regulatory process to take years."

But it rarely takes this long, some experts said.

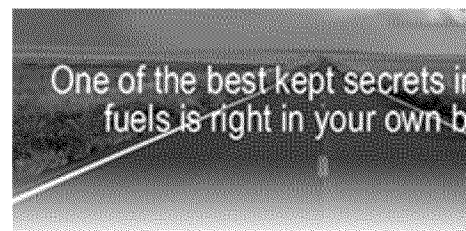
Bradbury said he has negotiated consent decrees for similar incidents within just a couple of years, including many that

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have resulted in more complicated terms for the alleged polluter – more than just a fine.

“It suggests to me that DOJ or somebody was slow to the party in terms of acting on this thing,” he said.

The Texas General Land Office and the Commission on Environmental Quality, which stand to receive payments under the agreement, both referred questions to Paxton’s office, where a spokeswoman said she could not comment because the agreement is not final. The U.S. Department of Justice did not respond to messages.

“Seventeen years is a pretty good stretch,” said Jim Phillips, former land office general counsel and a former chief of the attorney general’s energy division.

Phillips, who did not remember the Karnes County spill, suggested that the intense multi-state wrangling that followed BP’s 2010 Deepwater Horizon explosion and spill — which will ultimately yield Texas hundreds of millions of dollars after being resolved this summer — could have held up much smaller cases in recent years.

“When BP happened, all of the smaller stuff like this got shoved on the back burner,” he said.

Garry Mauro, who was finishing a 16-year tenure as land commissioner in the waning days of 1998, said he did not remember the spill, but he was surprised the claim took so long to resolve.

“Seventeen years?” he asked. “Wow, that’s a long time.”



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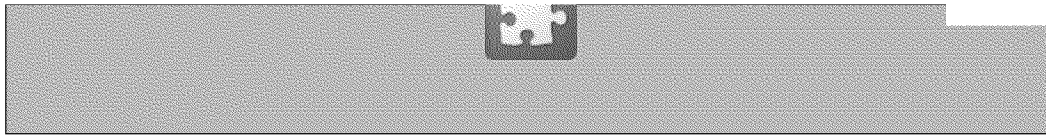
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Judge approves Exxon Mobil settlement over 2013 Arkansas spill

A federal judge on Wednesday approved Exxon Mobil Corp's \$5.07 million settlement of charges that it violated the federal Clean Water Act and state environmental laws in connection with a 2013 oil spill in central Arkansas.

U.S. District Judge Kristine Baker in Little Rock, Arkansas called Exxon Mobil's consent decree with the United States and Arkansas "fair, reasonable, and adequate, and consistent with the Clean Water Act."

The rupture of Exxon's Pegasus pipeline led to a March 29, 2013 spill that caused about 3,190 barrels, or 134,000 gallons, of oil to flow through Mayflower, Arkansas and nearby waterways, including Lake Conway, which flows into the Arkansas River.

Exxon agreed to pay \$4.19 million in civil penalties, upgrade water quality in Lake Conway, and take steps to respond better to potential future spills. It did not admit liability.

Baker overruled an objection from Central Arkansas Water, a water system that serves 400,000 people, which said the accord did not do enough to protect against potential spills.

The Pegasus pipeline runs about 850 miles (1,370 km) from Illinois to Texas and transports Canadian heavy crude oil. It was built in the 1940s.

The case is U.S. et al v. ExxonMobil Pipeline Co et al, U.S. District Court, Eastern District of Arkansas, No. 13-00355.

(Reporting by Jonathan Stempel in New York; Editing by Jonathan Oatis)


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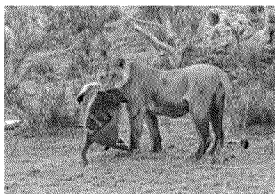
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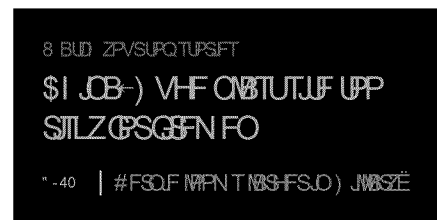
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SYRACUSE, New York — Aggie Lane made her neighborhood's pitch on July 11, 2005. Flanked by eight colleagues from the Partnership for Onondaga Creek, a citizens' voice for the south side of Syracuse, New York, as well as a half-dozen supporters, Lane pressed the case for civil-rights claims targeting a county government bent on putting a sewage plant in her largely African-American community.

At the U.S. Environmental Protection Agency's regional

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office in New York City Lane presented to a table full of civil-rights investigators and lawyers a PowerPoint detailing the Southside community's struggles: the state highway dissecting the historically black neighborhood; the industrial plants dumping on residents; and now the sewage treatment facility threatening to add to the burden.

"We all know that a white, middle-class community would not put up with a sewer facility in a residential area," Lane, herself a white, middle-class transplant to Southside Syracuse, said to the regulators.

One year earlier, Lane and fellow members of the Partnership had filed a complaint alleging that the Midland Avenue Regional Treatment Facility — planned by Onondaga County, with state approval — would discriminate against the Southside's black residents "both because of the siting and the [facility's] impacts." Filed under federal civil-rights law, the complaint claimed the plant would harm the "health and overall quality of life of the surrounding community," as well as adjacent Onondaga Creek.

Partnership members believed the complaint epitomized the fight for environmental justice. To bolster their argument, they noted the county's proposal for a similar plant on the north side of Syracuse, then predominantly white. That facility used alternative technology much like the Partnership had been advocating to no avail, according to the complaint, making it smaller and less obtrusive than what Southside residents were facing.

"We felt the county was putting something in here because it's a black area, and the EPA would see right through it," recalled Joanne Stevens, a lifelong resident of the Southside who became a Partnership member.

The EPA's Office of Civil Rights disagreed, dismissing the Partnership's complaint in March 2005 after conducting a six-month investigation without interviewing residents or visiting the Southside area.

Now, at this meeting four months later, EPA investigators said little about the decision. They listened as residents challenged the civil-rights office's finding

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that the Midland plant did “not have a significant adverse impact” — questioning its rationale for making such a determination and criticizing an inquiry that relied on county records. EPA officials offered a small concession that would give residents hope for their cause:

“If we receive new significant information,” one investigator told the group, according to Partnership meeting minutes, “we may investigate.”

“They thought that would be the end of it, but they didn’t know us,” Lane said, alluding to the 650-page addendum the Partnership filed a year later to supplement its case. She remembers mailing it, certified, and following up with a phone call — never to hear from the EPA again.

The brush-off was not unusual. As an investigation by the Center for Public Integrity has shown, the EPA’s civil-rights office — assigned to enforce Title VI of the Civil Rights Act of 1964 and assess environmental-discrimination claims filed by communities of color — almost always closes cases without action. Among the minority of Title VI complaints sparking investigation — 64 such cases over 17 years, including Southside Syracuse — records suggest the office has failed to fulfill its mission of rooting out discriminatory acts at agencies receiving EPA financial assistance.

Regulators have rarely closed an investigation with official action on behalf of minority communities. By the time the Partnership meeting occurred — 12 years after the EPA accepted its first civil-rights claim, in 1993 — the agency had resolved five cases, all without findings of Title VI violations, and through a mediation process not involving the complainants. In the decade since, the agency has settled an additional seven.

Alma Lowry, an environmental lawyer and former director of Syracuse University’s public-interest law firm, which represented Southside residents, said EPA’s civil-rights record has sent a clear message to citizens: “There’s no gavel behind [Title VI].” She once worked at the Detroit law firm that has logged some of the earliest Title VI complaints with the agency; one complaint, filed on behalf of a Flint, Michigan, neighborhood, has remained open, pending investigation, for 16 years. Last month, the Flint community joined four others in a lawsuit challenging the EPA for what it called a “pattern and practice of unreasonable delay . . .” in investigating their civil-rights claims. “The agency hasn’t been able to take off its environmental hat and put on its civil-rights hat,” Lowry said, explaining why she believes the EPA has never once found a formal Title VI violation in 22 years.

EPA officials declined to discuss details of specific cases, including Syracuse. The director of the agency’s civil-rights office, Velveta Golightly-Howell, has promised to make a “full-blown effort” to improve the handling of Title VI

complaints. “Our goal is really to provide relief for the complainants who have brought their issues and concerns to [the office],” she said.

The quest for justice in Southside Syracuse, however, tells a larger story of how people in some of the most disadvantaged communities can put forward a strong civil-rights case — replete with letter-writing campaigns, extensive research and what residents considered “smoking gun” documentation suggesting environmental racism — yet see little meaningful response from those enforcing the very law meant to protect them.

To this day, Lowry ranks Southside as “one of the most organized, effective and politically aggressive communities I’ve ever worked with.” Yet it lost its battle against the Midland Avenue sewage plant, a source of bitterness for residents still. Those who fought the hardest cannot help but pin blame on the EPA.

“If that kind of community can’t make Title VI work for them,” Lowry said, “I don’t know who could.”

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A forgotten neighborhood

Southside Syracuse, in Onondaga County, is like many other inner-city neighborhoods across the United States: pockmarked by crime and poverty. Bars and liquor stores dominate street corners, where drug deals can burst into the open. Residents hear gunfire while lying in bed at night. New and refurbished houses stand like beacons on city blocks. Most houses are in varying states of disrepair — dilapidated, boarded-up or abandoned. In some pockets, foundations and empty lots are all that remain.



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Residents remember the Southside in better days, with its luscious street trees and regal Gothic buildings. For the longest time, those who live here — 84 percent of whom are African- American, and earning an average per capita income of \$8,516 — have viewed the neighborhood as the “ghetto,” forgotten by white, wealthy Syracuse.

“Officials never invested money into this slum,” explained Elmore Davis, who, in 1998, moved to the Southside with her two daughters, lured by the promise of a house for \$500 down.

Against this backdrop of decay, the county's sewage plant does not seem terribly threatening. Situated on a bank of Onondaga Creek, near a dairy, a laundry, a canning factory and a bus terminal, the Midland Avenue Regional Treatment Facility looks like any other industrial building. At 24,000 square feet, the aboveground structure rivals the public-housing apartments dotting the area's residential streets. It sits 250 feet away from the closest home, surrounded by open space where the county has planted trees and shrubs, a testament to the community's activism.

Inside the facility, two "vortex swirl concentrators" act like giant toilets and flush sewer water down a pipe to a municipal treatment facility approximately five miles away. Underground, a 2.5-million-gallon tank stores storm water. As wastewater builds up, the "swirlers" disinfect the flow with chlorine and dump it into the creek. There are no stacks or vats spewing chemicals into the air. Many newer residents have no idea the plant was built to clean up a creek once so full of raw sewage that the stench wafted across intersections and seeped into homes.

For much of the last century, Syracuse's civic leaders have used the creek as a sewage channel. In the early 1900s, they designed a sewer system collecting sewage and storm water, and featuring up to 90 overflow points where waste could discharge into waterways during rain events. One such waterway is Onondaga Creek, which feeds a lake sharing its name. By the 1980s, untreated sewage had dirtied the creek, drying on its banks before funneling into Onondaga Lake, then among the nation's most polluted.

Targeting lake polluters, a local environmental group sued Onondaga County in 1988 under clean-water laws, alleging its "combined sewage overflows" violated safety standards. The New York State Department of Environmental Conservation joined the lawsuit, aiming to force a clean-up of Onondaga Creek.

As far back as 1979, county officials had drafted such a plan. The compliance program relied on swirlers to catch solid waste and chlorinate wastewater. It hinged on sewage plant "storage units," designed to treat flow on rain-drenched days. Officials proposed constructing four of these units, each above ground, and processing millions of gallons of wastewater a year. Even then, the county's plan included the Midland plant.

It took another two decades and a federal-court order before Onondaga County would implement its plan. In 1998, the clean-water litigation yielded a settlement requiring county officials to eliminate creek pollution. The county was to capture 85 percent of the average annual precipitation gushing into the combined sewers to reduce overflows. The settlement also dictated specific projects to be undertaken throughout Syracuse, including the Midland plant.

The judgment identified that plant as the first to be built — and the biggest. It would consume an entire city block and rival the size of a football field. A mile-long, 12-foot-diameter storage pipe would feed the plant.

Within months, the county's proposal was circulating among Southside residents who, by then, harbored a deep sense of mistrust. Over the years, government officials had built multiple urban-renewal projects in the neighborhood, evicting residents and razing homes. Industry crept further into the area, too; today, seven minor industrial facilities operate within four blocks, all formerly residential.

That county officials would site yet another project — and especially a sewage plant, which, in the words of Southside resident Lionel Logan, “was a negative connotation” — in the same community sent a clear message to residents.

“They figured our neighborhood is black, so they'll do it,” said Louise Poindexter, who has lived on the Southside for 20 years. She and other residents voiced their objections to the Midland plant at a series of public hearings in 1999. They criticized the proposal for displacing citizens and permitting the release of chlorine into the creek. By 2000, residents had formed the Partnership for Onondaga Creek and were organizing neighbors and lobbying politicians.

They demanded alternative locations for the plant but, as the Partnership's Stevens put it, “That seemed like trying to stop a freight train.” They next pressed for technologies they believed would reduce the facility's presence in their neighborhood. For them, the most appealing was underground storage, which holds sewage overflow in tanks during storms. It did not require chlorine or an aboveground facility. The county could build a park or a playground on top of the tanks, they argued.

City politicians soon took notice. “I thought, ‘Of course, there are other alternatives,’” recalled Joanne Mahoney, the Onondaga County executive, who then served on the Syracuse city council. She remembers meeting with county officials to discuss the options espoused by the Partnership, to no avail.

“If it wasn't about cost,” Mahoney said, summing up the county position at the time, “it was along the lines of ‘It'll improve the neighborhood if we put a plant there.’”

County administrators often presented the Midland plant as a kind of fait accompli: The plant, they noted at hearings and in documents, solved a serious environmental problem contributing to neighborhood nuisances.

They reminded critics about the court order, and insisted the Midland location made the most technical sense. Officials acknowledged that the plant had negatives but minimized them. Some said that landscaping the grounds was sufficient recompense. "I thought it was kind of patronizing," said Mahoney, of the county's responses. She, along with the rest of her city-council colleagues, voted not to sell the county the land it needed for the Midland plant.

Seeing her vote as one cast for environmental justice, she explained: "If combined sewage overflows were . . . running through one of the affluent, white [areas], we wouldn't say, 'What's the cheapest thing to do?' And we'd never suggest that just putting up a park would make the neighborhood whole again."

By 2001, Onondaga County had sued the city of Syracuse to acquire that land, prompting a legal mediation between the two administrations and designated "stakeholders," brokered by the state. Partnership members lobbied state regulators for a seat at the negotiating table as well; when ignored, they showed up at the weekly sessions anyway. Over nine months, they met with government engineers and administrators and kept up their campaign for other options. In the summer of 2002, county officials seemed ready to relent. Regulators even drafted a proposed agreement declaring that "the best solution . . . incorporates the use of underground storage" — until the county balked.

"The county said, 'We're going to court,'" said Joe Heath, general counsel for the six-tribe Onondaga Nation, which opposed the Midland plant and participated in the mediation, referring to a 2003 ruling seizing city land for the facility.

Onondaga County did make some concessions — subtracting one of three swirlers, for instance, and adding the underground tank. Administrators also agreed to buy an extra acre of land to construct only one building. The changes reduced the facility's footprint by 7,000 square feet, and shifted it away from homes by 160 feet. In documents, county officials presented such plant compromises as "considerabl[e]," and "an effort to accommodate [community] concerns." For residents, though, the scaled-down version was not enough.

"We said, 'Put in underground storage,' but the county couldn't do that, okay?" said Logan, who, like many Partnership members, left the negotiations feeling dissatisfied.

"My neighborhood still has the sewage plant," he added. "Sure, it's smaller . . . but it still exists."

'Total disregard'

The Partnership shifted its focus to the EPA's civil-rights office in 2004, when the group filed its Title VI complaint. While targeting Onondaga County, the complaint also named the state's Department of Environmental Conservation, which, under the 1998 judgment, had to approve the county's compliance program. It alleged that the county had violated civil-rights law in 2003 when issuing its final plan for the Midland plant — failing to allow for “adequate, meaningful public participation”; and adopting a design and location with “adverse impacts on a predominantly minority community.”

It was not the first time the civil-rights office had heard about the Midland plant. In 2000, the facility was cited as evidence of an alleged pattern of racial discrimination in a wide-ranging Title VI complaint targeting county and city administrations. Unlike Onondaga County, the city of Syracuse opposed the plant. Yet it “failed to mount an aggressive defense of its Protected Population neighborhood,” the complaint argued, as required by Title VI.

“The Midland plant was a clear example of the total disregard for people who live in those [Southside] neighborhoods,” said Mike Kisselstein, who, as manager of a local bank, penned the earlier complaint. “Technically, it's discrimination.”

Rather than examine Kisselstein's claim, the EPA denied it on procedural grounds because, the 2001 rejection letter stated, “it was not filed within 180 days of the alleged discriminatory act.”

Four years later, Southside residents were not about to let the EPA dismiss their case so easily. The Partnership offered a show of political support for its complaint, amassing a folder full of letters from federal legislators, university trustees, tribal members, local politicians, environmental advocates — “anybody who we thought had any clout,” Lane said. Within five months, the EPA accepted the complaint for investigation — in part. Investigators tossed out the first allegation as “untimely,” but not the second.

“The main gist of it, the [civil-rights office] was going to investigate,” said Lane, who, given the previous rejection, considered the partial acceptance a victory. Generally, the EPA can mediate some resolution of a Title VI complaint with the target of the allegations. The Partnership wanted nothing less. In the ensuing months Lowry, the group's lawyer, wrote multiple letters to federal, state and county officials suggesting as much.

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Source: Data from the U.S. Environmental Protection Agency, analysis by the Center for Public Integrity.

Credit: Yue Qiu, the Center for Public Integrity.

"We wanted EPA to say, 'Yes, there's environmental injustice here,'" explained Lane, the complaint's main contact, "and the way you can fix it is to go back to the negotiation table."

Onondaga County disputed the allegation, calling the complaint "jurisdictionally and procedurally defective," and arguing the plant would have little, if any, adverse impact. Responding to the citizens' complaint, county attorneys contended that the EPA had already addressed the core issues. They pointed to an environmental assessment of the Midland plant conducted by the agency's regional office, in New York City, which funded the \$125 million project.

As required by law, EPA regional officials five years earlier had reviewed the Midland plant for potential environmental impacts. In the 1999 assessment, the agency ceded that the facility could cause what it termed "high adverse impact," albeit "temporary and/or . . . offset by the county's measures to mitigate." It agreed with the county that the plant tackled a larger environmental problem, and that the plant location — home to several sewer overflows and trunk lines — meets "requirements for engineering feasibility and cost-effectiveness." And while the assessment included an environmental-justice analysis, examining a few nearby alternative sites, the agency said any facility would affect a similar population.

Ultimately, the EPA approved the Midland plant, issuing a "finding of no significant impact." The agency affirmed this conclusion in 2004, stating that "no significant adverse environmental impacts will result from the construction and operation of this project." That EPA finding, the county asserted in the civil-rights case, "precludes a finding of a Title VI violation."

For Southside residents, the irony seemed rich. Soon after the EPA released its environmental assessment, the county built 1,000 feet of a plant pipeline, ripping up properties, and disrupting people's lives. Now as the agency launched its civil-rights investigation, the county kicked off plant construction, seizing 45 townhouses, and evicting residents like Vernell Bentley, who lived in a public-housing unit across the street.

"They told me I had to go but I said, 'I'm not going,'" recalled Bentley, one of the few to hold out for replacement housing. She remembers when trucks pulled into her dead-end street, leveling picnic tables and a basketball court. "They were boarding up my windows," she said, "and putting up fences around my home."

Once a close-knit community, the Southside has not necessarily recovered. After the evictions, Bentley and former neighbors scattered across the city. Many have disappeared since. "It just messed up the neighborhood," said

Bentley, who likens her experience to that of black citizens pushed out by urban-renewal projects in the 1960s and '70s.

"We don't care about these Negroes, just put it here," she added.

By March 2005, the EPA's civil-rights office had dismissed the Partnership's complaint. Relying on the regional office's 1999 environmental assessment, as well as the county's paper trail for developing its sewer compliance plan, investigators determined that the Midland plant would not have a "significant adverse impact." "Therefore," the 2005 dismissal letter stated, "[the office] does not find a prima facie case of discriminatory effect."

Some saw a larger pattern in the EPA's dismissal. For years, its civil-rights office has interpreted compliance with environmental laws as evidence that a target's actions or decisions would not harm a minority community. Experts note that, unlike Title VI, environmental laws are not designed to protect historically vulnerable populations; on the contrary, they are written for everybody. These laws also examine individual impacts — on the air, or in the water — rather than the cumulative effect, as required by Title VI.

"Compliance with environmental laws was conflated with compliance with Title VI," said Lowry, who, like many, has viewed such an interpretation as a misreading of civil-rights law. In the Syracuse case, investigators did not evaluate what she described as legitimate resident claims about the county's final plan — its disruption to the community, for instance, and its dislocation of residents — because of their reliance on an environmental review not intended to account for such consequences in the same way as Title VI.

"With Title VI and the EPA," she added, "there is something of a disconnect."

Stunned by what they considered an unfair investigation, the Partnership pushed for a meeting with EPA officials in the summer of 2005, during which they challenged the agency's dismissal. When they heard the EPA's concession, members set out to find what they considered "new and significant information." Over nine months, they filed records requests and combed through documents detailing Onondaga County's sewer compliance plan. By 2006, they had produced a 150-page addendum, backed by 500 pages of government records, outlining how plan architects had repeatedly made decisions that would burden the Southside over other neighborhoods.

They believed they had uncovered "the smoking gun" in a three-page document written by consulting engineers for county administrators. The

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1998 document revealed that Onondaga County had planned to build a “swirl concentrator” just like the Midland plant on the Northside before evaluating alternatives that, the engineering report stated, “will reduce costs and disruption of the site.”

The county could capture the Northside’s sewer overflows by building an “oversize pipeline in both Midland and [nearby downtown],” according to the report, thus sparing the former “disruption.” The county later scratched this area’s sewage plant for a smaller, less intrusive “floatable control facility.”

“It was like, ‘Okay, that’s discrimination,’” said Lane, noting the Northside facility sat near luxury condominiums in a predominantly white area. A retired engineer, she saw the document as an expose of the ways the county was, in her words, “shifting the burden from the Northside, sparing them and placing it onto the Southside, where you can get away with it.”

Given all this work — and all this new information — Partnership members never expected that the EPA would fail to acknowledge their addendum, they say. Now, 10 years after their case’s dismissal, they have learned all about the agency’s lackluster record of adjudicating civil-rights claims. Still, their case has seemed as good as any could get. To them, the agency’s silence has left one lasting impression of its enforcement of civil-rights law:

“We do all the digging. We send them stuff. They don’t talk to us anymore,” said Lane, summing up the community’s Title VI experience. “It makes you cynical after a while. . . . You think, ‘What does any of this really mean?’”

Asked about Syracuse, Golightly-Howell, the EPA’s civil-rights chief, declined to speak about cases that have not “happened on my watch,” beginning in February 2014. In general, she pointed out, “the agency bears the burden of investigating and determining whether a prima facie case [of discrimination] has been established.”

Under her leadership, Golightly-Howell said, the civil-rights office has worked to implement a strategic plan for improving how investigators handle Title VI complaints. As part of this effort, it issued a position paper in May explaining the role of complainants during case investigations.

“We’ve made forward movement in the direction of increasing confidence,” she said.

After the EPA’s dismissal, Southside residents kept up their fight, protesting at every phase the Midland plant’s construction. They eventually benefitted from a shift in Onondaga County’s political landscape in late 2007, when executive Mahoney won her first election. Almost as soon as she had

assumed office, Mahoney set out to revise the county's sewer compliance plan. By then, the Midland plant had already been built, but not its feeder line. She cancelled that pipeline, as well as another proposed sewage plant.

"It was clearly the right thing to do," said Mahoney, who has since implemented a plan largely relying on alternative technologies espoused by the Partnership, such as underground storage.

Today, the Midland plant is the rare sewage plant storage unit to actually be built in Syracuse. Mahoney's sewer compliance plan has enabled her administration to reduce the footprint of every single proposed swirler facility except Midland. Some of those facilities became underground storage tanks, and are now nestled beneath parking lots. Others were never built.

That none of the city's other neighborhoods have had to endure what they have endured remains a bitter pill to swallow for many on the Southside. "We got the plant," the Partnership's Poindexter said. "Nobody else did." As residents see it, Southside may be in better shape today than it would be if it no one had spoken up years ago — their sewage plant is smaller, their creek cleaner. But none of these gains came about because the EPA's civil-rights office did right by the community.

"What did the agency do for us? They didn't do shit for us," Poindexter said, echoing the sentiment among many neighbors. "They gave us hope when they knew there was none. That's how I feel about the whole thing."

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VICTORIA ADVOCATE

Grassroots effort helps clean up Tres Palacios Creek



By Sara Sneath

Aug. 11, 2015 at 11:21 p.m.

Updated Aug. 12, 2015 at 1 a.m.



Palacios residents Isaac Philip, 17, left, and Adrian Ortiz, 17, wait on the boardwalk to ride the creek Saturday at Carl Park. Richard Hoang for The Victoria Advocate

If you go

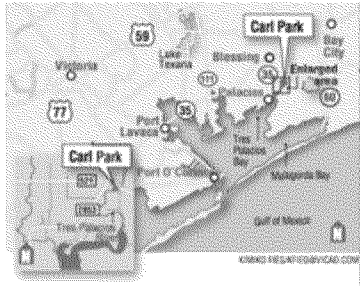
- **WHAT:** Stakeholder meeting to come up with a plan to address elevated levels of bacteria in the Tres Palacios Creek Watershed

PALACIOS - A Bay City man wiped sweat from his brow as he pulled his boat out of the Tres Palacios Creek on Saturday.

For decades, Larry Capps has fished the creek a few miles upstream of the Tres Palacios Bay. Capps has caught giant redfish and gafftop in the saltwater that sinks to the bottom of the creek.

WHEN: 5:30 p.m. Aug. 27

WHERE: First United
Methodist Church, 209 Lucas
Ave., Palacios



On a typical summer weekend, recreating families join Capps on the water that meanders between Matagorda and Wharton counties.

But the area of the Tres Palacios Creek near the Texas Gulf Coast is on the state environmental agency's list of impaired waters because of an elevated level of bacteria. The Texas Water Resources Institute has kicked off an effort to address the quality of the watershed.

The institute is enlisting the help of Matagorda County and Wharton County community members to pinpoint the sources of pollution and come up with a plan to reduce the bacteria.

Farmland and septic systems that are flooded when the creek overflows could be the cause of the elevated levels, Capps said. But the bacteria doesn't appear to affect the fish.

"I would see signs of it from dead, floating fish to lack of bait fish," he said. "But that's not happening in the river."

In July, community members met for the first time to discuss the watershed. During the meeting, they decided that a volunteer effort to take water samples would help identify where the bacteria might be coming from.

The grassroots group will continue to meet and elicit more community voices to develop a strategy to meet state environmental agency water standards.

The steps outlined in the plan will be voluntary, except to those who hold a permit through the state to release into the creek, said Texas Water Resources Institute research scientist Allen Berthold.

The city of El Campo is the only entity that holds a permit to release into the tidal segment of the Tres Palacios Creek and the only entity that could potentially be forced to comply with the community-developed plan.

"For everything else, it's entirely voluntary," Berthold said. "For landowners and agriculture, it's all voluntary."

Although the plan won't be enforced, Charles Baker, a director with the Matagorda County Soil and Water Conservation District, said he thinks most people will comply.

"I think that if people understand why it needs to be taken care of, we will get compliance," he said.

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THE LEADER IN ENERGY & ENVIRONMENTAL POLICY NEWS

EPA:

Scientific integrity plan 'stuck in utero' -- watchdogs

Robin Bravender, E&E reporter

Published: Wednesday, August 12, 2015

U.S. EPA is dragging its feet when it comes to ensuring the integrity of its science, according to a government watchdog group.

Public Employees for Environmental Responsibility yesterday sent a [letter](#) to EPA Administrator Gina McCarthy criticizing her agency for failing to fully implement an official scientific integrity policy.

Despite adopting a scientific integrity policy in 2012 and hiring a full-time scientific integrity officer in 2013, PEER said, the policy is "stuck in utero" and EPA's stated commitment "remains largely unfilled."

"At the moment, EPA's Scientific Integrity Policy is of no practical help to scientists facing political pressure or reprisal," PEER Executive Director Jeff Ruch said in a statement. "EPA famously claims to operate 'within a fishbowl' but it is one in which the curtains are still tightly drawn."

Among PEER's complaints is that there are "no formal processes for receiving or resolving allegations" of policy violations.

PEER is urging EPA to establish timetables to ensure that employees who express differing scientific opinions are protected from retaliation, procedures so EPA scientists know when they are allowed to publish scientific works and media protocol laying out when scientists may respond to press inquiries.

"These missing elements are not mere details -- they are the guts of the policy without which it is just an empty promise," Ruch wrote in the letter.

And the group is pressing McCarthy to get personally involved. "We urge the direct involvement of the Office of Administrator in filling in the gaping holes remaining in this policy before the end of the Obama administration," Ruch said.

EPA received 40 scientific integrity complaints in 2014, according to its most recent annual report. Those complaints involved allegations of suppression or delay, complaints surrounding peer review and several related to disputes over authorship -- including plagiarism allegations ([Greenwire](#), March 3).

Francesca Grifo, EPA's scientific integrity official, said earlier this year that the allegations of scientific integrity lapses represented less than 0.3 percent of the agency's employees but that each one is taken seriously.

Grifo said that the "small percentage" of complaints received "shows that we have a clear and effective process for reporting allegations." And while EPA needs to "remain vigilant," she added, "our Scientific Integrity Annual Report shows real progress, and I believe we are now poised to have the procedures and processes in place we need."

McCarthy has consistently defended her agency's work as EPA's science has come under siege by Republican lawmakers critical of the administration's policies.

"With science as our North Star, EPA has steered America away from health risks and toward healthier communities and a higher overall quality of life," McCarthy said during a speech last year. "That's why it's worrisome that our science seems to be under constant assault by a small -- but vocal -- group of critics."

She denounced critics for "playing a dangerous game by discrediting the sound science" that EPA relies on ([Greenwire](#), April 28, 2014).

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THE LEADER IN ENERGY & ENVIRONMENTAL POLICY NEWS

WATER POLLUTION:

Texas' Galveston Bay gets C in health report card

Published: Wednesday, August 12, 2015

The first-ever report card on the health of Texas' Galveston Bay gave the waterway a C and warned that conditions will worsen unless steps are taken to continue restoration efforts.

The report released today by the Houston Advanced Research Center and Galveston Bay Foundation described a bay that is under assault by pollution, habitat loss and climate change. The bay is destined to lose the health gains it has made over the past three decades if no further action is taken, the authors wrote.

"It's not dire, it's not a lost cause, but if we want to keep this going in the right direction, we need to take action," said Erin Kinney, a research scientist with the Houston Advanced Research Center.

The report is aimed at a general audience and thus doesn't make any specific policy recommendations, said Bob Stokes, president of the Galveston Bay Foundation.

"There is a message we'd like to get out," Stokes said, which is that without action, "the health of the bay will undoubtedly continue to deteriorate."

The report is the first about the bay aimed at communicating with the general public. The wonky and sporadic "State of the Bay" reports are written primarily for scientists and officials charged with managing programs affecting the 600-square-mile estuary, the seventh-largest in the United States.

"Even though the status and trends were out there, it wasn't in a way [people] could access and use in their daily lives very effectively," Kinney said. "We take the science and put it in a forum that's easy to understand and easy to update."

The report card is the first of three annual reports to be funded by a \$720,000 grant that also pays for consultant Enviromedia, Stokes said.

Beyond the overall C grade, the report offers a B grade for water quality; a C grade for human health risks and coastal change; and a D for pollution events and sources, wildlife, and habitat.

The authors are hoping the public will make practical use of the report.


For example, leaking sewer pipes are a major cause of pollution in the bay, and people pouring grease and oil down the drain cause pipes to burst, Stokes said. Anyone can improve the health of the bay by putting grease into the garbage, he said.

"We want to let people know how their individual actions can impact the bay and try to inspire people to get out and help," Stokes said (Harvey Rice, Houston Chronicle, Aug. 11). -- BTP

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Coastal restoration: The money, by the numbers



Trees, like these cypress and tupelo in a Tierra Resources/Entergy/St. Charles Parish restoration project in Luling, absorb carbon from the air and store it in their wood. Each ton of carbon stored per year may be sold as a credit to offset emissions of carbon or carbon-equivalent gasses by industries in California.

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on August 11, 2015 at 11:54 AM, updated August 11, 2015 at 12:01 PM

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Here's a breakdown of the money needed to pay for Louisiana's Master Plan, with half dedicated to coastal restoration. The chart includes known and possible future money sources.

Coastal restoration: Where's the money?

The Cost

\$50 billion in 50 years: Price tag in 2007 for state Master plan through 2057, including \$25 billion for coastal restoration.

\$100 billion in 50 years: Estimated cost, some say, due to delays and inflation, with \$50 billion for restoration.

How much do we have (so-called "guaranteed" money)

\$7.7 billion from plea agreements, settlements with BP, partners *, **

Estimated \$140 million/year (\$5.88 billion total) from Gulf of Mexico Energy Security Act oil revenue ***

Up to \$90 million/year (\$3.78 billion total) from Coastal Wetlands Planning, Protection and Restoration Act ****, *****

\$13.2 billion already spent, including \$11.2 billion on levees and flood protection, \$2 billion on restoration.

How much do we still need: \$19.8 billion to \$69.8 billion, depending on cost estimates

Other potential money sources

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AIR POLLUTION:

17 states launch legal assault against startup-shutdown rule

Amanda Peterka, E&E reporter
Greenwire: Wednesday, August 12, 2015

Seventeen states are challenging U.S. EPA's recent rule that changed the way states are required to address excess air pollution that occurs during plant startups and shutdowns or industrial equipment malfunctions.

In a petition for review, the states argue that EPA "erroneously concluded" that their plans to reduce pollution were "inadequate" to address emissions that occur during those times.

Led by Florida, the states filed the petition yesterday in the U.S. Court of Appeals for the District of Columbia Circuit.

"We will not step aside while the EPA, through heavy-handed federal overreach, threatens to upend a system that the EPA has approved multiple times and has provided a consistent, reliable framework to safely provide electricity to millions of Floridians across the state," Florida Attorney General Pam Bondi said in a statement. "Furthermore, the agency's action could result in higher utility bills for Florida consumers."

EPA's final rule published in June rescinded long-standing state provisions known as "affirmative defense" that shield industrial facilities from civil penalties for violations of National Ambient Air Quality Standards that occur during startups, shutdowns and malfunctions.

The final rule also found that states cannot automatically exempt facilities from emission limits during those times. EPA required that 36 states reopen Clean Air Act state implementation plans, or SIPs, and revise them within 18 months to comply with the changes ([Greenwire](#), May 22).

The rule arose out of a petition by the Sierra Club, which has long argued that affirmative defense and exemptions during "SSM" events constitute a loophole that allows facilities to release emissions in excess of permit limits.

EPA has said the decision to eliminate affirmative defense from state plans was also in response to a ruling last year by the D.C. Circuit that found the agency lacked authority to grant cement kilns an affirmative defense for pollution violations occurring during malfunctions ([Greenwire](#), Oct. 16, 2014).

In the statement, though, Florida's attorney general said EPA's decision to require states to change previously approved plans violated states' rights under the Clean Air Act. The state also argued the rule would stall progress in improving air quality.

Along with Florida, the states challenging the rule are Alabama, Arizona, Arkansas, Delaware, Georgia, Kansas, Louisiana, Mississippi, Missouri, Ohio, Oklahoma, South Carolina, South Dakota, West Virginia, Kentucky and North Carolina's Department of Environment and Natural Resources.

"Once again, the EPA is choosing to put the political interests of the Sierra Club ahead of Arkansans," said Arkansas Attorney General Leslie Rutledge in a statement. "In yet another 'sue and settle' case, the EPA is rushing to appease the interests of the Sierra Club."

EPA is facing several legal challenges over the final startup, shutdown and malfunction rule.

Free-market law firm Southeastern Legal Foundation and Walter Coke Inc. challenged it in June in the D.C. Circuit, while several entities, including the Texas Commission on Environmental Quality, have filed separate petitions against the rule in the 5th U.S. Circuit Court of Appeals.

In court documents, EPA has argued that the Texas challenge should be either dismissed or transferred to the D.C. Circuit because the rule is national in scope.

Environmental groups have moved to intervene in the legal action in both courts ([Greenwire](#), July 21).

"EPA is required to close these loopholes because they are inconsistent with the Clean Air Act," Sierra Club senior attorney Andrea Issod said in a recent statement. "The loopholes also have the real-world consequences of compromising air quality and public health."

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No Injuries Reported In East Texas Paint Plant Fire

August 12, 2015 9:59 AM

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Fire at Century Industrial Coating in Jacksonville, TX (Image via KLTN – Kimberly Nance)

Related Tags: Century Industrial Coating, East Texas, fire, hazmat crews, Jacksonville, Jacksonville Fire Department, Paint, Texas

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JACKSONVILLE (CBSDFW/AP) – Investigators say nobody has been hurt in an overnight fire and explosions at a paint-related industrial [plant](#) in East Texas.

Authorities are trying to determine what sparked the fire early Wednesday at Century Industrial Coating- a paint manufacturing plant Off Highway 69 near Jacksonville. Officials say the fire was brought under control by about dawn.

Jacksonville Fire Department Chief Keith Fortner says several explosions happened as the fire produced flames visible throughout the city that caused temporary evacuations and closed off the highway.

Fire crews from Tyler, Bullard, Rusk, Palestine, Gallatin, and Jacksonville all responded to the scene.

Hazardous materials crews were helping with cleanup at the company, which manufactures paint and coatings. Law officers were rerouting [traffic](#) in the area.

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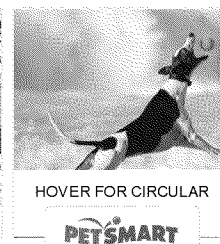
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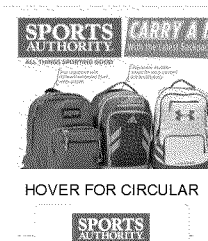
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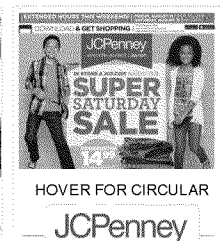
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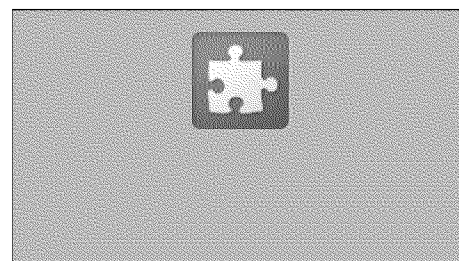


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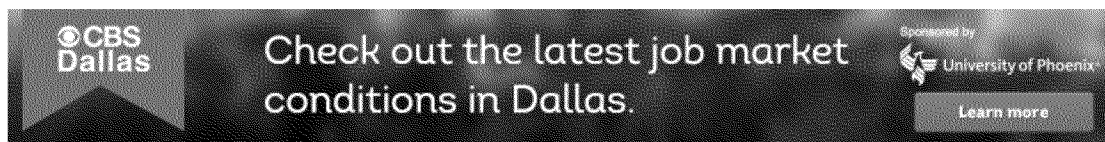
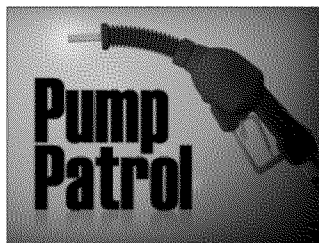
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